

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MATTHEW ZACHARIAH DEAN,)
)
)
Petitioner,)
)
-vs-) Case No. CIV-15-1323-F
)
JOE M. ALLBAUGH,)
)
Respondent.)

ORDER

Petitioner Matthew Zachariah Dean, appearing pro se, has filed a petition seeking habeas relief under 28 U.S.C. § 2254, challenging his criminal conviction by the State of Oklahoma.

On December 7, 2017, Magistrate Judge Bernard M. Jones entered a Report and Recommendation (the Report) addressing each of petitioner's grounds for relief. Doc. no. 21. The Report recommends denial of the petition for habeas relief. The Report also recommends denial of petitioner's pending motions. Petitioner objects to the Report. Doc. no. 26.

As required by 28 U.S.C. §636(b)(1), the court has reviewed all objected to matters *de novo*. Having done so, the court agrees with the conclusions stated in the detailed Report and finds that no purpose would be served by further analysis here.

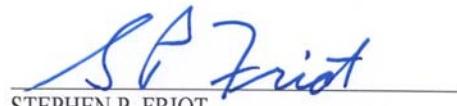
Plaintiff's objections to the Report are **DENIED**. The Report and Recommendation of the Magistrate Judge is **ACCEPTED, ADOPTED** and

AFFIRMED. In accordance with the Report, the petition for a writ of habeas corpus is **DENIED**. For the reasons stated in the Report, petitioner's pending motions are also **DENIED**. *See*, motions at doc. no. 17 ("Motion for Evidentiary Hearing"); doc. no. 19 ("Petitioner's Brief in Support of Federal Habeas Pursuant to 28 U.S.C. § 2254(d)(1)(2) and Petitioner's Motion for Evidentiary Hearing Pursuant to 28 U.S.C. § 2254(e)(2); Rule 8(a)(b) R. 6(a) 8(c)," repeating arguments for habeas relief, seeking an evidentiary hearing, and asking for appointment of counsel); and doc. no. 20 ("Motion to File for Leave," seeking "permission to file for leave to stay to amend pleadings for the proper exhaustion in State Court.... [i]n order to develop Factual Allegations presented for review," with no additional argument stated in the motion).

Movant is entitled to a certificate of appealability only upon making a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). This standard is satisfied by demonstrating that the issues movant seeks to raise are deserving of further proceedings, debatable among jurists of reasons, or subject to different resolution on appeal. *See, Slack v. McDaniel*, 529 U.S. 473, 484 (2000) ("[W]e give the language found in §2253(c) the meaning ascribed it in [Barefoot v. Estelle, 463 U.S. 880, 893 (1983)], with due note for the substitution of the word 'constitutional.'"). "Where a district court has rejected the constitutional claims on the merits,...[t]he petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Id.* When a prisoner's habeas petition is dismissed on procedural grounds without reaching the merits of the prisoner's claims, "a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition

states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.* Petitioner has not made the requisite showing and a certificate of appealability is **DENIED**.

IT IS SO ORDERED this 13th day of March, 2018.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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